IN THE HIGH COURT UTTARANCHAL,

AT NAINITAL.

A.O. No. 1620/2001

(Old No. 448/1999)

U.P. State Road Transport Corporation through
its Regional Manager, Region Dehradun ..Appellant.

Vs.

1- Heera Lal S/o Late Govind Ram
2- Smt. Shiv Devi W/o Heer Lal
3- Anil Kumar S/o Heera Lal,
4- Km. Mamta D/o Heera Lal,
All R/o Subhash Bazar Dugadda,
Dehradun.
5- Smt. Vibha Devi W/o Ramesh Chandra
Bhatnagar R/o Moti Bazar, Dugadda,
Dehradun.
6- United Insurance Company
Dehradun … Respondents.

Sri A.N. Sharma, learned counsel for the appellant.
Sri Rajendra Kotiyal, learned counsel for the respondents.

(Hon'ble B.C. Kandpal, J.)

This appeal has been preferred by the U.P.S.R.T.C. against the award dated 23/27-1-1999, passed by Motor Accident Claim Tribunal/District Judge, Pauri Garhwal, in MACP No. 31 of 1996 Heera Lal and others Vs. U.P. S.R.T.C. and others, whereby the claim petition was decreed for Rs. 1,75,000/- against the U.P.S.R.T.C. The Tribunal also directed that the decreetal amount be deposited within one month, failing interest @ 18% per annum shall be payable on the decreetal sum.

2. Brief facts of the case are that deceased Sanjai Kumar on the day of the accident was travelling in Taxi Jeep No. UP 07-B/7637 and bus bearing registration No. UGTY 8717 of U.P.S.R.T.C. was coming from the opposite direction. It was being driven rashly and

negligently. It hit the jeep in which deceased Sanjay Kumar received grievous injuries. He was rushed to Government Combined Hospital, Kotdwara. From there he was referred to Meerut, which inspite of best medical treatment, he could not be saved and died on account of the injuries sustained by him in the accident. The deceased was 26 years of age. He was a driver and was earning Rs. 2,000/- per month. The claimants are parents, brother and sister of the deceased. They claimed compensation in lieu of death of Sanjai Kumar.

3- The O.P. U.P.S.R.T.C. filed W.S. and alleged that the accident occurred due to rash and negligent driving of other vehicle. The petition has been filed on wrong facts.

4- The O.P. United India Insurance Company contested the claim petition and filed its W.S. It alleged that the vehicle in which the deceased was travelling, was not being driven in accordance with the conditions of insurance policy.

5- The O.P./owner of jeep No. U.P. 07-B/7637 also filed his W.S. and asserted that the driver of the jeep had valid driving lincence. The vehicle was insured with New India Insurance Company. The accident occurred due to rash and negligent driving of the driver of vehicle belonging to U.P.S.R.T.C.

6- On the pleadings of the parties, the Tribunal framed the following issues in the petition:-

1- Whether vehicle Jeep No. U.P. 07-B/7637 and vehicle Bus No. UGY 8717 collided vis-à-vis and deceased Sanjai Kumar dies due to injuries received in this accident?.
2- Whether the accident took place due to rash and negligent driving of the drivers of the aforesaid vehicles?.
3- To what amount of compensation, if any, the claimants are entitled and from which of the opposite parties?.

7- Thereafter, parties adduced evidence in support of their allegations. The Tribunal on perusing the evidence on record and having heard the learned counsel for the parties, awarded Rs. 1,75,000/- as compensation against the U.P.S.R.T.C. and directed that the awarded sum be deposited within one month, failing which interest @ 18% per annum will be payable.

8- Feeling aggrieved U.P. S.R.T.C. preferred the appeal before the Allahabad High Court, which has been transferred to this court, after creation of new State.

9- Heard learned counsel for the parties and perused the record.

10- The learned counsel for the appellant has submitted that the accident did not occur due to the rash and negligent driving of the driver of vehicle belonging to the U.P.S.R.T.C. but it occurred due to the negligence of jeep driver and the Tribunal has committed error in coming to the conclusion that the accident took place due to the rash and negligent driving of offending bus. It was also submitted that the Tribunal awarded excessive amount of compensation.

11- The allegation of the claimants is that the deceased was travelling in Jeep bearing registration No. U.P. 07-B/7637. When the jeep was near Village Goria, bus bearing registration No. UGY 8717 was coming from the opposite direction. It was being driven very rashly and it hit the jeep and accident had occurred. The factum of accident has not been denied by the Opposite Parties. The claimants in support of their case produced P.W.1, Heera Lal and P.W.2, Mohd. Sahid. P.W.2, Mohd. Sahid is an eye witness of the accident. He has given detailed account of the accident. This witness was travelling in the offending bus. He has specifically deposed that his bus driver was driving the bus at a very fast speed. The jeep driver had no fault in the accident. The Opp.Parties did not adduce any cogent and reliable evidence to substantiate their allegations. The testimony of the eye witness P.W.2, Mohd. Sahid is uncontroverted. The submission raised on behalf of learned counsel for the appellant has no substance.

The Tribunal was justified in holding that the accident occurred due to rash and negligence of the bus driver.

12- So far as the amount of compensation awarded to the claimants is concerned, the deceased at the time of accident was 26 years of age. He was driver by profession and his monthly income was Rs. 2,000/-. It was alleged by the claimants that they spent Rs. 80,000/- on his treatment. The claimants filed cash memos of purchase of medicines worth about Rs. 25,000/-. The Tribunal awarded Rs. 50,000/- towards medical expenses incurred on the deceased by the claimants. The Tribunal has held that it is not always possible to obtain cash receipts. The medical men treating the injured do not grant cash receipts and at times it is not possible to obtain cash receipts. In my opinion the amount awarded by the Tribunal towards medical expenses, is just and proper.

13- Further the Tribunal awarded a sum of Rs. 1,25,000/- for the loss of death of the deceased. Looking to the age, profession and dependency of the claimants on the deceased, this amount cannot be said to be excessive. The submission raised by he learned counsel for the appellant, in this regard, also without any force and is accordingly rejected.

14- For the reasons stated above, the appeal lacks merit and is liable to be dismissed.

15- Accordingly the appeal is dismissed. The impugned judgment and award dated 23/27.1.1999, is hereby confirmed. No order as to cost.

(B.C. Kandpal, J.)

Dated: 11-12-2006

ISB